

## REMARKS

### **I. General**

Claims 1-28 and 30-36 were pending in the present application. The present Office Action (mailed August 27, 2008) raises the following issues:

- Objection to missing claim 29;
- Claim 30 is rejected under 35 U.S.C. §112, second paragraph as being indefinite due to lack of antecedent basis for “the processor”;
- Claims 1-4, 6-10, 13-15, 17-28, 30, 31, 33, and 34 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,941,271 to Soong (hereinafter “*Soong*”); and
- Claims 5, 11, 12, 16, 32, 35, and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Soong* in view of U.S. Patent Application Publication No. 20040068650 to Resnitzky (hereinafter “*Resnitzky*”).

Applicant respectfully traverses the outstanding rejections raised in the current Office Action, and requests reconsideration and withdrawal thereof in light of the amendments and remarks presented herein.

### **II. Amendments**

Claim 29 is indicated as canceled herein. Applicant notes that the original claim numbering in this application inadvertently omitted claim 29, and thus skipped from claim number 28 to claim number 30. Applicant has indicated claim 29 as canceled herein to resolve any potential confusion regarding whether any such claim is pending in this application.

Claim 30 is amended herein to change “the processor” to “a processor” to alleviate the lack of antecedent basis issue raised by the Examiner. This amendment is not intended to narrow the scope of the claim in any way.

### **III. Objection**

The Office Action raises an objection to claim 29 as being omitted from the application. Applicant notes that the claim numbering inadvertently omitted claim 29 and skipped from claim number 28 to claim number 30. Applicant has indicated claim 29 as canceled herein to resolve any potential confusion regarding whether any such claim is pending in this application.

### **IV. Rejection Under 35 U.S.C. §112, Second Paragraph**

Claim 30 is rejected under 35 U.S.C. §112, second paragraph as being indefinite due to lack of antecedent basis for “the processor”. As noted above, claim 30 is amended to instead recite “a processor”, thereby alleviating the lack of antecedent basis issue. Accordingly, this rejection should be withdrawn.

### **V. Rejections Under 35 U.S.C. §102 over *Soong***

Claims 1-4, 6-10, 13-15, 17-28, 30, 31, 33, and 34 are rejected under 35 U.S.C. §102(e) as being anticipated by *Soong*. Applicant respectfully traverses these rejections for the reasons below.

To anticipate a claim under 35 U.S.C. § 102, a single reference must teach each and every element of the claim. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). In fact, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Furthermore, for a reference to be anticipatory, “[its] elements must be arranged as required by the claim.” *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990), *cited in* M.P.E.P. § 2131. As discussed below, *Soong* fails to teach all elements of claims 1-4, 6-10, 13-15, 17-28, 30, 31, 33, and 34, and therefore fails to anticipate the claims under 35 U.S.C. §102.

Independent Claim 1

Claim 1 recites, in part, “retrieving the first-level access key; and generating a second-level access key by modifying the level of access of the first-level access key” (emphasis added). *Soong* fails to disclose at least this element of claim 1, as discussed below.

*Soong* is directed generally to “manipulation and handling of health care records to enhance patient care”. Col. 1, lines 8-10. While *Soong* mentions that access rules may be used for controlling access to the health care records (*see e.g.*, col. 2, lines 50-58 and col. 11, line 6 – col. 12, line 34), *Soong* provides no teaching regarding modifying existing access rules. That is, *Soong* provides no teaching of generating a second-level access key by “modifying the level of access of the first-level access key”, as recited by claim 1. Instead, *Soong* is primarily concerned with modification of existing health care records (*see e.g.*, col. 4, lines 60-67, col. 7, lines 7-20, col. 8, lines 31-37, and col. 9, lines 1-21), rather than modification of any access keys that control access to the health care records.

The Office Action cites to col. 11, lines 6-49 of *Soong* as teaching this element of claim 1 (*see* page 3 of the Office Action). However, the cited portion of *Soong* does not make any mention whatsoever of generating a second-level access key by modifying the level of access of the first-level access key. While the cited portion of *Soong* mentions generally that “persons seeking records are allowed only to access and organize the selective portions of a patient’s records” (col. 11, lines 8-10), this simply provides no teaching or hint of generating a second-level access key by modifying the level of access of the first-level access key. Indeed, this portion of *Soong* makes no mention whatsoever of modifying the access level of an existing access key in order to generate another access key.

At col. 12, lines 11-20, *Soong* further mentions that a patient may choose to allow different types of access to different groups of persons. However, this portion of *Soong* also provides no teaching whatsoever of generating a second-level access key by modifying the level of access of the first-level access key. Again, *Soong* makes no mention whatsoever of modifying the access level of an existing access key in order to generate another access key.

Therefore, *Soong* fails to teach all elements of claim 1, and thus fails to anticipate the claim under 35 U.S.C. §102. Accordingly, the rejection of claim 1 should be withdrawn.

Independent Claim 22

Claim 22 recites, in part, “wherein the server system is configured to: ... retrieve the first-level access key; and generate a second-level access key by modifying the level of access of the first-level access key” (emphasis added). *Soong* fails to disclose at least this element of claim 22 for reasons similar to those discussed above with claim 1. Accordingly, the rejection of claim 22 should also be withdrawn.

Independent Claim 30

Claim 30 recites, in part, “retrieve the first-level access key; and generate a second-level access key by modifying the level of access of the first-level access key” (emphasis added). *Soong* fails to disclose at least this element of claim 30 for reasons similar to those discussed above with claim 1. Accordingly, the rejection of claim 30 should also be withdrawn.

Dependent Claims 17-21

Dependent claims 17-21 stand rejected under 35 U.S.C. §102 as being anticipated by *Soong*. However, claims 17-21 each depend either directly or indirectly from independent claim 16, and thus inherit all limitations of independent claim 16. The Office Action concedes that *Soong* fails to teach all elements of claim 16, *see* page 9 of the Office Action. Accordingly, *Soong* likewise cannot properly anticipate claims 17-21. As such, the rejection of claims 17-21 should be withdrawn, and any new grounds of rejection for these claims should be presented in a new non-final office action to afford Applicant a full and fair opportunity to consider and respond to those new grounds of rejection.

Dependent Claims 2-4, 6-10, 13-15, 23-28, 31, 33, and 34

Each of dependent claims 2-4, 6-10, 13-15, 23-28, 31, 33, and 34 depends either directly or indirectly from one of independent claims 1, 22, and 30, and thus each inherits all limitations of the respective independent claim from which it depends. It is respectfully submitted that dependent claims 2-4, 6-10, 13-15, 23-28, 31, 33, and 34 are allowable not only because of their dependency from their respective independent claim for the reasons discussed above, but also in view of their novel claim features (which both narrow the scope

of the particular claims and compels a broader interpretation of their respective independent claim).

## **VI. Rejections Under 35 U.S.C. §103 over *Soong* in view of *Resnitzky***

Claims 5, 11, 12, 16, 32, 35, and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Soong* in view of *Resnitzky*. Applicant respectfully traverses these rejections below.

### Independent Claim 16

Claim 16 recites, in part, “retrieving the first-level access key; generating a second-level access key by modifying the level of access of the first-level access key; and deleting the first-level access key from the datastore” (emphasis added). The combination of *Soong* and *Resnitzky* fails to teach or suggest at least the above-emphasized element of claim 16, as discussed below.

The Office Action relies on *Soong* as teaching the above-emphasized element. However, for the reasons discussed above with claim 1, *Soong* fails to teach or suggest this element of claim 16. *Resnitzky* is not relied-upon as disclosing this element, nor does it appear to do so.

Therefore, the combination of *Soong* and *Resnitzky* fails to teach or suggest all elements of claim 16, and thus fails to render claim 16 unpatentable under 35 U.S.C. §103. Accordingly, the rejection of claim 16 should be withdrawn.

### Dependent Claims

Each of dependent claims 5, 11, 12, 32, 35, and 36 depends either directly or indirectly from one of independent claims 1 and 30, and thus each inherits all limitations of the respective independent claim from which it depends. It is respectfully submitted that dependent claims 5, 11, 12, 32, 35, and 36 are allowable not only because of their dependency from their respective independent claim for the reasons discussed above, but also in view of their novel claim features (which both narrow the scope of the particular claims and compels a broader interpretation of their respective independent claim).

## VII. Conclusion

In view of the above, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-3948, under Order No. 66729/P033US/10614705 from which the undersigned is authorized to draw.

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Respectfully submitted,

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